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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/561,768

03/23/2006

Yury Gogotsi

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EXAMINER

HENDRICKSON, STUART L

ART UNIT

PAPER NUMBER

1793

MAIL DATE

DELIVERY MODE

03/09/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/561,768	Applicant(s) GOGOTSI ET AL.	
	Examiner Stuart Hendrickson	Art Unit 1793	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-7 is/are pending in the application.
 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-7 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____. |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>7/13/06, 12/20/07</u> . | 6) <input type="checkbox"/> Other: ____. |

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The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-7 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 1, 'desired' and 'narrow' are subjective and unclear. 'tunable' is unclear in that it implies that the pore structure of the carbon product can be changed after it is recovered.

Claim 6 is unclear in that it implies that some sort of guess was made before the process began.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 3-7 are rejected under 35 U.S.C. 102(b) as being anticipated by Leis article.

Leis teaches on pg. 2043 reacting AlC and halogen gas at 900C. The teaching of Ti, Si carbide is noted. No difference is seen in the carbon product.

Claims 1-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Leis taken with El-Raghy.

Leis does not teach the compound of claim 2. El-Raghy teaches it as a composite of TiC and SiC. Using it as a source is an obvious expedient to make the desired carbon, noting that Leis teaches carbides as useful materials in the introduction.

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Claims 1, 3, 4, 6, 7 are rejected under 35 U.S.C. 102(b) as being anticipated by Boehm article.

Page 149 teaches narrow-pore distribution carbon made from reacting TaC with at 500C.

Claims 1, 3-7 are rejected under 35 U.S.C. 102(b) as being anticipated by Fedorov.

Page 89 teaches making carbon from carbides at 800-1200C. The variety of materials is noted.

Claims 1-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fedorov taken with El-Raghy.

Fedorov does not teach the compound of claim 2. El-Raghy teaches it as a composite of TiC and SiC. Using it as a source is an obvious expedient to make the desired carbon, noting the teaching of various carbides as useful materials and the opening page of Fedorov.

Claims 1, 3, 6, 7 are rejected under 35 U.S.C. 102(b) as being anticipated by Gordeev article.

Page 2245 teaches chlorination of carbides such as Ti, Si.

Claims 1, 3, 4, 6, 7 are rejected under 35 U.S.C. 102(b) as being anticipated by Eriksson et al. 4454013.

The reference teaches in the figure and col. 4 chlorinating Ti carbide to make carbon. No difference is seen in the carbon, Due to the similarity of the process.

It is noted that Si is not a metal, and thus silicon carbide is excluded from the claims. If applicants disagree, then they are instructed to state so positively on the record, provide evidence that this is so and to amend the claims accordingly.

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This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Any inquiry concerning this communication should be directed to examiner Hendrickson at telephone number (571) 272-1351.

/Stuart Hendrickson/
Primary examiner Art Unit 1793